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ABSTRACT

Presented in this booklet are (1) a question and answer article regarding the June 1973 U. S. Supreme Court decision to change the First Amendment Law concerning works with sexual content; (2) a memorandum from the vice-president and president-elect of the American Library Association (ALA) regarding the Supreme Court obscenity decisions of June 1973; (3) the ALA resolution on Supreme Court decisions; (4) an ALA information report on the obscenity decisions of the Supreme Court; (5) an ALA interpretation of the Library Bill of Rights in regard to the intellectual freedom statement and free access to libraries for minors; and (6) the ALA policy statement on confidentiality of library records. Also included are ALA resolutions and statements on labeling, challenged materials, reevaluation of library materials for children's collections, sexism, racism and other -isms in library materials, access to library materials, reevaluating library collections, expurgation of library materials, governmental intimidation, and shield laws. (HOD)

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# INTELLECTUAL FREEDOM COMMITTEE

# UPDATE

CS 201 103

DECEMBER 1973

# Q & A with the Supreme Court

On June 21, 1973, in five opinions* delivered by Chief Justice Burger and concurred in by Justices White, Blackmun, Powell, and Rehnquist, the U.S. Supreme Court changed First Amendment law regarding works with sexual content. Justice Brennan issued dissents concurred in by Justice Stewart and Marshall. Justice Douglas, who remains steadfast in his total opposition to governmental censorship, filed separate dissents.

The following questions and answers are designed to allow the Court to speak for itself, and to clarify--to the extent possible at this early stage--the meaning of its June 21st decisions.

Q. What are the new guidelines for determining whether or not a work is protected by the First Amendment?

A. In setting forth new standards, which will inevitably become known as the Miller guidelines, the Court said:

> The basic guidelines for the trier of fact must be:
> (a) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest,
> (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, and
> (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. We do not adopt as a constitutional standard the "utterly without redeeming social value" test of Memoirs v. Massachusetts. . . . (Miller v. California.)

Q. Who will ordinarily decide these "facts" (i.e., appeal to prurient interest, patent offensiveness, and serious value) in prosecutions for distributing works with sexual content?

A. In the words of the Court, lay jurors are "the usual ultimate factfinders in criminal prosecutions." (Miller v. California.)

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*Miller v. California; Kaplan v. California; Paris Adult Theater I v. Slaton; United States v. Orito; and United States v. 12 200-Ft. Reels of Super 8mm. Film. These cases involved a number of issues, including how "obscenity" is to be determined, distribution to consenting adults, and transporting and importing of "obscene" works.

Q. What kinds of evidence will a jury be required to consider in its deliberations?

A. Only the allegedly "obscene" work itself. The Court explicitly rejected any need for expert testimony on the nature of "local" standards or any related matters:

> [In the California trial of bookseller Murray Kaplan] no "expert" testimony was offered that the book was "obscene under national standards," or that the book was "utterly without redeeming social importance," despite "expert" defense testimony to the contrary. . . . [T]he Court today holds that the "contemporary community standards of the State of California," as opposed to the "national standards," are constitutionally adequate to establish whether a work is obscene. We also reject . . . any constitutional need for "expert" testimony on behalf of the prosecution, or for any other ancillary evidence of obscenity, once the allegedly obscene materials themselves are placed in evidence. . . . [This Court] has regarded the materials as sufficient in themselves for determination of the question. (Kaplan v. California.)

Q. Are findings of juries on such matters of fact appealable in the courts?

A. Ordinarily, no. Appeals are generally granted on such grounds as errors of judges in applying the law, misinterpretations of the law, and the like. If, in an obscenity prosecution, the jury considers simply the allegedly "obscene" work and no expert testimony, it is unlikely that its finding, as a finding of fact, could be appealed.

Q. What is wrong with submitting the question of "obscenity" to jurors?

A. The late Justice Hugo Black, dissenting in Ginzburg v. United States (1966), stated that "human beings, serving either as judges or jurors, could not be expected to give any sort of decision" concerning prurient interest "which would even remotely promise any kind of uniformity in the enforcement of [the] law." He added, "In the final analysis, the submission of such an issue . . . to a judge or jury amounts to nothing more than a request for the judge or juror to assert his own person beliefs about whether the matter should be allowed to be legally distributed. Upon this subjective determination the law becomes certain for the first and last time."

Q. Aren't the Court's changes in law merely verbal changes which leave matters largely as they were?

A. The Court has not merely changed the language in which the three guidelines are formulated. It has, as these answers show, substituted

local for national standards and eliminated any need for the prosecution to present expert testimony in its case. It has also restricted possession of unprotected works to the home.

Q. For what reasons were national standards rejected?

A. The Court said:

> . . . our nation is simply too big and too diverse for this Court to reasonably expect that such standards could be articulated for all 50 States in a single formulation, even assuming the prerequisite consensus exists. When the triers of fact are asked to decide whether "the average person, applying contemporary community standards" would consider certain materials "prurient," it would be unrealistic to require that the answer be based on some abstract formulation. (Miller v. California.)

Q. What is the "local" community? The state? The city? The neighborhood?

A. The June 21st decisions do not answer this question directly. The Court said that its "primary concern" is to assure that, so far as materials are not aimed at deviant groups, they will be judged by their impact on the "average person." The Court added:

> We hold that the requirement that the jury evaluate the materials with reference to "contemporary standards of the State of California" serves this protective purpose and is constitutionally adequate. (Miller v. California. Emphasis added.)

Thus state standards are "adequate." Will, for example, city standards also be considered adequate? This question must be resolved.

Q. Doesn't the Court specifically say that state law must define the sexual conduct which is not to be depicted in a patently offensive way?

A. Yes. But the Court did not say that there must be state standards for determining whether or not a depiction is "patently offensive."

Q. What does the Court mean by "sexual conduct"?

A. Although the Court says it is concerned with depictions of "sexual conduct," it also speaks of "lewd exhibition of the genitals" and "nudity." (Miller v. California.)

Q. To what do "local" community standards apply?

A. Both "prurient appeal" and "patent offensiveness" are clearly subject to "local" standards:

> Under a national Constitution, fundamental First Amendment limitations on powers of the States do not vary from community to community, but this does not mean that there are, or should or can be, fixed, uniform national standards of precisely what appeals to the "prurient interest" or is "patently offensive.". . . The adversary system, with lay jurors as the usual ultimate factfinders in criminal prosecutions, has historically permitted triers-of-fact to draw on the standards of their community, guided always by limiting instructions on the law. To require a State to structure obscenity proceedings around evidence of a national "community standard" would be an exercise in futility. (Miller v. California.)

Q. Does the Court hold that expert testimony is required to establish whether or not a work has "serious literary, artistic, political, or scientific value"?

A. The Court does not say that such testimony is required. The clear intent of the Court is to shift the burden of proof. Formerly, prosecutors had to prove that "obscene" works were utterly without redeeming social value; now, the defense must prove that a challenged work has "serious literary, artistic, political, or scientific value."

Q. Will there be many "local" standards on "serious value"?

A. If the June 21st decisions are not modified, quite possibly. It is not a favorable sign that the Court found it reasonable or even necessary to say, in its discussion of "exploitation of sex and nudity," that explicit books for the education of physicians have serious value.

Q. What about dissemination to consenting adults?

A. In the case that involved films exhibited to "adults only," the Court said:

> We categorically disapprove the theory . . . that obscene, pornographic films acquire constitutional immunity from state regulation simply because they are exhibited for consenting adults only. . . The States have a long-recognized legitimate interest in regulating the use of obscene material in local commerce and in all places of public accommodation, as long as these regulations do not run afoul of specific constitutional provisions. (Paris Adult Theater v. Slaton.)

Q. On what basis does the Court reject the "consenting adults" theory?

A. The Court said:

> Such laws are to protect the weak, the uninformed, the unsuspecting, and the gullible from the exercise of their own volition. . . . Modern societies [do not] leave disposal of garbage and sewage up to the individual "free will," but impose regulations to protect both public health and the appearance of public places. (Paris Adult Theater v. Slaton. Emphasis added.)

Q. Can I possess "obscene" materials in my own home?

A. Yes. But you may not transport them in interstate commerce, nor may you purchase, acquire, or import such materials from any source.

> . . . we cannot say that the Constitution forbids comprehensive federal regulation of interstate transportation of obscene material merely because such transport may be by private carriage, or because material is intended for the private use of the transporter. . . . Congress may regulate on the basis of the natural tendency of material in the home being kept private and the contrary tendency once material leaves that area, regardless of a transporter's professed intent. (United States v. Orito.)

> We are not disposed to extend the precise, carefully limited holding of Stanley [v. Georgia, 1969] to permit importation of admittedly obscene materials simply because they are imported for private use only. To allow such a claim would not be unlike compelling the government to permit importation of prohibited or controlled drugs for consumption as long as such drugs are not for public distribution or sale. (United States v. 12 200-Ft. Reels.)

Q. The Court speaks of "serious literary, artistic, political, and scientific value." What about works that entertain, for example, mystery thrillers and comic films?

A. If the Court insists upon a narrow interpretation of its holdings, they will have no protection if they appeal to the "prurient interest" and are "patently offensive" in depicting sexual conduct or nudity.

Q. In other words, the fact that a work has value to me does not necessarily mean it has "serious" value protected by the First Amendment?

A. Unfortunately, the answer is yes.

Q. What about religious works for example? Are they unprotected if they have sexual content that is "offensive"?

A. It is hard to believe that the Court meant to exclude religious works--indeed works of many kinds of value not mentioned in the Miller guidelines. But the fact remains that the Court did not list "serious religious value."

Q. What alternatives did the Court consider before arriving at its present holdings?

A. Justice Brennan, who rejected as utter failures the post-1957 attempts of the Court to resolve the problem of obscenity, presented several alternatives in his major dissenting opinion:

> 1. The approach requiring the smallest deviation from our present course would be to draw a new line between protected and unprotected speech. . . . In my view, clarity cannot be obtained pursuant to this approach except by drawing a line that resolves all doubts in favor of state power and against the guarantees of the First Amendment. (Paris Adult Theater v. Slaton.)
>
> 2. The Court's approach [today] necessarily assumes that some works will be deemed obscene - even though they clearly have some social value - because the state was able to prove that the value, measured by some unspecified standard, was not sufficiently "serious" to warrant constitutional protection. That result is not merely inconsistent with our holding in Roth, it is nothing less than a rejection of the fundamental First Amendment premises and rationale of the Roth opinion and an invitation to widespread suppression of sexually oriented speech. (Paris Adult Theater v. Slaton.)
>
> 3. . . . we might conclude that juries are best suited to determine obscenity . . . and that jury verdicts in this area should not be set aside except in cases of extreme departure from prevailing standards. . . . Far from providing a clearer guide to permissible primary conduct, the approach would inevitably lead to even greater uncertainty and the consequent due process problems of fair notice. (Paris Adult Theater v. Slaton.)

Brennan concludes the following:

> I would hold . . . that at least in the absence of distribution to juveniles or obtrusive exposure to unconsenting adults, the First and Fourteenth Amendments prohibit the state and federal governments from

attempting wholly to suppress sexually oriented materials on the basis of their allegedly "obscene" contents. Nothing in this approach precludes those governments from taking action to serve what may be strong and legitimate interests through regulation of the manner of distribution of sexually oriented material. (Paris Adult Theater v. Slaton.)

Q. Why did the Court reject Brennan's suggestions?

A. In part, because of a concern for minors:

> For good or ill, a book has a continuing life. It is passed from hand to hand, and we can take note of the tendency of widely circulated books of this category to reach the impressionable young and have a continuing impact. (Kaplan v. California.)

The Court chose not to approve prohibitions similar to those widely used to protect minors from the abuses of alcohol, etc. Such a decision, it would seem, would have been more consistent with a long-standing precedent, that legislation restricting speech must be no broader than is essential to the protection of the avowed interest. Obviously, by prohibiting all distribution, the Court went beyond protecting minors. Given that the Court took pains to stress that the now rejected guidelines were never agreed upon by a majority of Justices, it should be said that on this point--protection of minors--the five Justices of the majority in Kaplan flatly contradicted a unanimous decision of the Court in Butler v. Michigan (1957).

Q. Are the various states required to follow the Court in adopting "strict" standards on "obscenity"?

A. The Court held that the states may follow a "laissez faire" policy and "drop all controls on commercialized obscenity." (Paris Adult Theater v. Slaton.)

Q. What will be the impact of these decisions?

A. It may be two or three years before some of the issues raised by the June 21st decisions are clarified, and thus it is difficult to assess their full ramifications in terms of, say, the next ten years. Still, there has been enough new censorship since June 21, 1973, to cause major, quite justified alarm.

Insofar as libraries and librarians are concerned, Justice Douglas pointed out that if the decisions are construed quite literally, there could be raids on libraries. In its petition to the U.S. Supreme Court for a rehearing of its June 21st decisions, the ALA asks the following questions:

(1) How does a librarian determine whether or not a work in its collection, having sexual content, is to be used by a patron for permissible scientific purposes as opposed to impermissible recreational purposes?

(2) Must every work having sexual content acquired by a library be reviewed to determine whether, taken as a whole, it has serious literary, artistic, political, or scientific value? If this is required, may the librarian reviewing the book be liable to criminal prosecution as well as fine or imprisonment if a jury ultimately determines that the work is obscene under contemporary community standards?

(3) Where a library, for example, a state or regional library, serves more than one community having varying laws on obscenity, what contemporary community standard is to be applied?

(4) May the unilateral decision of a librarian not to acquire a work on the ground that it is obscene be challenged by an author or publisher on the ground that such determination constitutes state action in violation of their First Amendment rights?

AMERICAN LIBRARY ASSOCIATION
50 EAST HURON STREET · CHICAGO, ILLINOIS 60611 · (312) 944-6780

TO: Chapters of the American Library Association DATE: Sept. 22, 1973

FROM: Edward G. Holley, Vice-President and President-Elect, ALA

RE: Supreme Court Obscenity Decisions of June 21, 1973

> With every available legal means, we will challenge laws or governmental action restricting or prohibiting the publication of certain materials or limiting free access to such materials.
>
> Intellectual Freedom Statement
> Adopted by ALA Council, June 25, 1971

1. Consonant with the ALA policy cited above, the American Library Association has filed a brief before the Supreme Court requesting a rehearing of the Court's obscenity decisions of June 21, 1973. As the motion clearly enunciates:

> These decisions . . . permit the imposition of censorship functions on libraries and librarians which would fundamentally change their traditional role in support of intellectual freedom and would fundamentally alter the nature and content of their collections and the dissemination of such collections to the people.

2. Through the action of this request for rehearing the Association again reiterates its posture of resisting censorship activities as stated in Articles 3 and 4 of the Library Bill of Rights.

3. In the opinion of ALA counsel, the thrust of the five Supreme Court decisions raises the following critical issues:

   (a.) In prosecuting a case against allegedly obscene materials, now the prosecutor is in no way required to introduce expert

testimony. The defense may present expert witnesses, but their testimony may be disregarded.

(b.) The burden of proof is now shifted from the prosecution to the defense. In satisfying a jury, the prosecutor need do no more than prove that the work, measured by some unspecified standard, is not sufficiently "serious" to warrant constitutional protection.

(c.) In measuring the "patently offensive," nationwide standards are no longer relevant. The jury is asked to apply "community" standards which they may determine themselves.

4. In shifting from nationwide to community standards, the way is opened for the adoption of new or revised obscenity statutes at state and local levels, which may present serious problems for libraries.

5. Since all restrictive legislation of this kind is a violation of intellectual freedom, legislation proposed at state and local levels should be reviewed with great care. In certain states, where such statutes already exist, one or more of the following elements in their statutes have provided some safeguards:

(a.) Libraries, museums, and other similar institutions are exempt from the provisions of the statutes.

(b.) State obscenity statutes are pre-emptive, i.e., they remove from municipalities and other political subdivisions the authority to adopt obscenity statutes.

(c.) In defining "community standards" the community may be construed as the nation or at least the state, and not

as a municipality, county, or other local political subdivision.

(d.) Expert testimony on "serious value" and the nature of "community standards" is required in both civil and criminal proceedings.

(e.) There is no presumption of scienter, i.e., in any prosecution for distribution of allegedly obscene materials, the prosecution is required to prove that the accused distributed the materials with full knowledge of their content and character.

(f.) Civil proceedings to determine the status of challenged works are required before any injunction can be sought barring their distribution and before any criminal proceedings can be instituted against persons for distributing them.

6. This memorandum was developed after consultation with representatives from the following ALA units: the Intellectual Freedom, Legislation, and Chapter Relations committees, and the American Library Trustee Association. The staff of the Office for Intellectual Freedom and the ALA Washington Office as well as other appropriate staff of the Association are prepared to assist the Chapters in interpreting the implications of the Supreme Court rulings and in furthering the development of chapter programs in support of the principles of intellectual freedom.

7. Plans are already underway to hold a meeting to review further the effect of the Court's rulings on libraries. This meeting is being scheduled to coincide with the 1974 Midwinter Meeting in Chicago.

For further information contact the ALA Office for Intellectual Freedom.

1972-73
ALA Council
Document # 60.1 (Action)

RESOLUTION ON SUPREME COURT DECISIONS

WHEREAS, On June 21, 1973, the United States Supreme Court decided five cases involving the application of First Amendment guarantees to materials having sexual content; and

WHEREAS, The effect of these decisions on libraries has been summarized by Mr. Justice Douglas in his dissenting opinion (Paris Adult Theater I v. Slayton, District Attorney, et al.):

> What we do today is rather ominous as respects librarians. The net now designed by the Court is so finely meshed that taken literally it could result in raids on libraries. Libraries, I had always assumed, were sacrosanct, representing every part of the spectrum. If what is offensive to the most influential person or group in a community can be purged from a library, the library system would be destroyed.

and

WHEREAS, These decisions, collectively, effect a fundamental change in the nature and scope of First Amendment guarantees; and

WHEREAS, These decisions, in substance, change previous law by holding that (1) works which, while having some redeeming social value, but which do not, taken as a whole, have "serious literary, artistic, political or scientific value" are subject to censorship; (2) the determination of the seriousness of the value of a work is to be made by the jury on the basis of "contemporary community standards" applied by the "average person"; (3) the "contemporary community standards" to be applied by the "average person" are not those of the national community but rather those of any local subdivision of government which chooses to adopt obscenity legislation; (4) there is no need for any evidence or showing of proof supporting the claimed obscenity of a work, other than a presentation of the work itself; (5) the obscenity of a work is an issue of fact for the jury and hence not an appealable issue; and (6) while a person may possess in the privacy of his own home material deemed to be obscene, he may not purchase, acquire, or import such material from any source;

NOW, THEREFORE, BE IT RESOLVED, That the American Library Association file a petition to the U. S. Supreme Court for a rehearing of its five decisions handed down on June 21, 1973 involving the First Amendment, and that the Freedom to Read Foundation, the legal defense arm of the American Library Association's intellectual freedom program, conduct the litigation on behalf of the Association; and

BE IT FURTHER RESOLVED, That the American Library Association advise the signatories of the FREEDOM TO READ STATEMENT and other appropriate groups of the foregoing action and invite them to support the effort of the Association by filing similar petitions, joining in the petition of the Association, or taking other affirmative action deemed appropriate.

# INFORMATION REPORT ON THE OBSCENITY DECISIONS OF THE SUPREME COURT

On June 21, 1973, the United States Supreme Court handed down decisions involving issues under the First Amendment: United States v. Orito; United States v. 12 200-Ft. Reels of Super 8 mm. Film, et al; Paris Adult Theater I et al. v. Lewis R. Slaton, District Attorney, Atlanta Judicial Circuit, et al.; Miller v. California; Kaplan v. California.

Generally speaking, these five decisions establish four new guidelines for determining whether a work is to be protected by the First Amendment or is to be considered beyond the range of the First Amendment and thus censorable.

First, the phrase "utterly without redeeming social value" has been deleted as one of the three tests, all of which had to coalesce in order for a work to be banned. Substituted for "utterly without redeeming social importance" is the test of "whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value."

Second, the term "community standards" is not to be interpreted as the standards of the "national community." Rather, the Supreme Court has declared that each state - and even each local political subdivision - may enact obscenity legislation. This legislation is to be applied through a jury on the local level which will review each work according to the "average person" standard. If the jury decides that the "average person" in its particular community would find the material to be obscene, it would be censored. Furthermore, the decision of whether or not a work is obscene is an issue of fact for the jury, and hence is not appealable.

Third, there is no longer any necessity for a prosecutor to present evidence in his attempt to convince the jury that a work is obscene and, therefore, illegal. A prosecutor now has only to present the work itself to the jury and, based on its first-hand review, the jury is entitled to make the determination of obscenity.

Fourth, the concept that a person has the right to possess whatever he desires in the privacy of his own home (Stanley v. Georgia) has been narrowly restricted by the Court. While a person is still entitled to possess whatever he desires in his own home, he may not purchase, acquire or import from any source material deemed to be obscene.

The effects of these new provisions on libraries are best summed up by Justice William O. Douglas in his dissent in Paris Adult Theater I v. Slaton, District Attorney, et al.:

> What we do today is rather ominous as respects librarians. The net now designed by the Court is so finely meshed that

> taken literally it could result in raids on libraries. Libraries, I had always assumed, were sacrosanct, representing every part of the spectrum. If what is offensive to the most influential person or group in a community can be purged from a library, the library system would be destroyed.

The Executive Board, having reviewed the implications of these decisions with the Intellectual Freedom Committee, the Trustees of the Freedom to Read Foundation and the Association's Legal Counsel, concurs with this view of Justice Douglas. Beyond all question, these decisions constitute the most serious challenge to intellectual freedom confronted by the library community in this century.

# INTELLECTUAL FREEDOM STATEMENT

## An *Interpretation of the* LIBRARY BILL OF RIGHTS

*The heritage of free men is ours.*

In the Bill of Rights to the United States Constitution, the founders of our nation proclaimed certain fundamental freedoms to be essential to our form of government. Primary among these is the freedom of expression, specifically the right to publish diverse opinions and the right to unrestricted access to those opinions. As citizens committed to the full and free use of all communications media and as professional persons responsible for making the content of those media accessible to all without prejudice, we, the undersigned, wish to assert the public interest in the preservation of freedom of expression.

Through continuing judicial interpretations of the First Amendment to the United States Constitution, full freedom of expression has been guaranteed. Every American who aspires to the success of our experiment in democracy—who has faith in the political and social integrity of free men—must stand firm on those Constitutional guarantees of essential rights. Such Americans can be expected to fulfill the responsibilities implicit in those rights.

*We, therefore, affirm these propositions:*

1. We will make available to everyone who needs or desires them the widest possible diversity of views and modes of expression, including those which are strange, unorthodox or unpopular.

   Creative thought is, by its nature, new. New ideas are always different and, to some people, distressing and even threatening. The creator of every new idea is likely to be regarded as unconventional—occasionally heretical—until his idea is first examined, then refined, then tested in its political, social or moral applications. The characteristic ability of our governmental system to adapt to necessary change is vastly strengthened by the option of the people to choose freely from among conflicting opinions. To stifle nonconformist ideas at their inception would be to end the democratic process. Only through continuous weighing and selection from among opposing views can free individuals obtain the strength needed for intelligent, constructive decisions and actions. In short, we need to understand not only what we believe, but why we believe as we do.

2. We need not endorse every idea contained in the materials we produce and make available.

   We serve the educational process by disseminating the knowledge and wisdom required for the growth of the mind and the expansion of learning. For us to employ our own political, moral, or esthetic views as standards for determining what materials are published or circulated conflicts with the public interest. We cannot foster true education by imposing on others the structure and content of our own opinions. We must preserve and enhance the people's right to a broader range of ideas than those held by any librarian or publisher or church or government. We hold that it is wrong to limit any person to those ideas and that information another believes to be true, good, and proper.

3. We regard as irrelevant to the acceptance and distribution of any creative work the personal history or political affiliations of the author or others responsible for it or its publication.

   A work of art must be judged solely on its own merits. Creativity cannot flourish if its appraisal and acceptance by the community is influenced by the political views or private lives of the artists or the creators. A society that allows blacklists to be compiled and used to silence writers and artists cannot exist as a free society.

4. With every available legal means, we will challenge laws or governmental action restricting or prohibiting the publication of certain materials or limiting free access to such materials.

   Our society has no place for legislative efforts to coerce the taste of its members, to restrict adults to reading matter deemed suitable only for children, or to inhibit the efforts of creative persons in their attempts to achieve artistic perfection. When we prevent serious artists from dealing with truth as they see it, we stifle creative endeavor at its source. Those who direct and control the intellectual development of our children—parents, teachers, religious leaders, scientists, philosophers, statesmen—must assume the responsibility for preparing young people to cope with life as it is and to face the diversity of experience to which they will be exposed as they mature. This is an affirmative responsibility that cannot be discharged easily, certainly not with the added burden of curtailing one's access to art, literature, and opinion. Tastes differ. Taste, like morality, cannot be controlled by government, for governmental action, devised to suit the demands of one group, thereby limits the freedom of all others.

5. We oppose labeling any work of literature or art, or any persons responsible for its creation, as subversive, dangerous, or otherwise undesirable.

   Labeling attempts to predispose users of the various media of communication, and to ultimately close off a path to knowledge. Labeling rests on the assumption that persons exist who have a special wisdom, and who, therefore, can be permitted to determine what will have good and bad effects on other people. But freedom of expression rests on the premise of ideas vying in the open marketplace for acceptance, change, or rejection by individuals. Free men choose this path.

6. We, as guardians of intellectual freedom, oppose and will resist every encroachment upon that freedom by individuals or groups, private or official.

It is inevitable in the give-and-take of the democratic process that the political, moral and esthetic preferences of a person or group will conflict occasionally with those of others. A fundamental premise of our free society is that each citizen is privileged to decide those opinions to which he will adhere or which he will recommend to the members of a privately organized group or association. But no private group may usurp the law and impose its own political or moral concepts upon the general public. Freedom cannot be accorded only to selected groups for it is then transmuted into privilege and unwarranted license.

7. Both as citizens and professionals, we will strive by all legitimate means open to us to be relieved of the threat of personal, economic, and legal reprisals resulting from our support and defense of the principles of intellectual freedom.

Those who refuse to compromise their ideals in support of intellectual freedom have often suffered dismissals from employment, forced resignations, boycotts of products and establishments, and other invidious forms of punishment. We perceive the admirable, often lonely, refusal to succumb to threats of punitive action as the highest form of true professionalism: dedication to the cause of intellectual freedom and the preservation of vital human and civil liberties.

In our various capacities, we will actively resist incursions against the full exercise of our professional responsibility for creating and maintaining an intellectual environment which fosters unrestrained creative endeavor and true freedom of choice and access for all members of the community.

We state these propositions with conviction, not as easy generalizations. We advance a noble claim for the value of ideas, freely expressed, as embodied in books and other kinds of communications. We do this in our belief that a free intellectual climate fosters creative endeavors capable of enormous variety, beauty, and usefulness, and thus worthy of support and preservation. We recognize that application of these propositions may encourage the dissemination of ideas and forms of expression that will be frightening or abhorrent to some. We believe that what people read, view, and hear is a critically important issue. We recognize, too, that ideas can be dangerous. It may be, however, that they are effectually dangerous only when opposing ideas are suppressed. Freedom, in its many facets, is a precarious course. We espouse it heartily.

*Adopted by the ALA Council,*
*June 25, 1971*

*Endorsed by the* FREEDOM TO READ FOUNDATION,
*Board of Trustees*
*June 18, 1971*

# Library Bill of Rights

The Council of the American Library Association reaffirms its belief in the following basic policies which should govern the services of all libraries.

1. As a responsibility of library service, books and other library materials selected should be chosen for values of interest, information and enlightenment of all the people of the community. In no case should library materials be excluded because of the race or nationality or the social, political, or religious views of the authors.

2. Libraries should provide books and other materials presenting all points of view concerning the problems and issues of our times; no library materials should be proscribed or removed from libraries because of partisan or doctrinal disapproval.

3. Censorship should be challenged by libraries in the maintenance of their responsibility to provide public information and enlightenment.

4. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

5. The rights of an individual to the use of a library should not be denied or abridged because of his age, race, religion, national origins or social or political views.

6. As an institution of education for democratic living, the library should welcome the use of its meeting rooms for socially useful and cultural activities and discussion of current public questions. Such meeting places should be available on equal terms to all groups in the community regardless of the beliefs and affiliations of their members, provided that the meetings be open to the public.

Adopted June 18, 1948.
Amended February 2, 1961, and June 27, 1967, by the ALA Council.

# FREE ACCESS TO LIBRARIES FOR MINORS

*Adopted by the ALA Council*
*June 30, 1972*

*An Interpretation of the*

## LIBRARY BILL OF RIGHTS

Some library procedures and practices effectively deny minors access to certain services and materials available to adults. Such procedures and practices are not in accord with the LIBRARY BILL OF RIGHTS and are opposed by the American Library Association.

Restrictions take a variety of forms, including, among others, restricted reading rooms for adult use only, library cards limiting circulation of some materials to adults only, closed collections for adult use only, and inter-library loan service for adult use only.

All limitations in minors' access to library materials and services violate Article V of the LIBRARY BILL OF RIGHTS, which states that, "The rights of an individual to the use of a library should not be denied or abridged because of his age . . .". Limiting access to some services and materials to only adults abridges the use of libraries for minors. "Use of the library" includes use of, and access to, all library materials and services.

Restrictions are often initiated under the assumption that certain materials are "harmful" to minors, or in an effort to avoid controversy with parents who might think so. The librarian who would restrict the access of minors to materials and services because of actual or suspected parental objection should bear in mind that he is not *in loco parentis* in his position as librarian. Individual intellectual levels and family backgrounds are significant factors not accommodated by a uniform policy based upon age.

In today's world, children are exposed to adult life much earlier than in the past. They read materials and view a variety of media on the adult level at home and elsewhere. Current emphasis upon early childhood education has also increased opportunities for young people to learn and to have access to materials, and has decreased the validity of using chronological age as an index to the use of libraries. The period of time during which children are interested in reading materials specifically designed for them grows steadily shorter, and librarians must recognize and adjust to this change if they wish to maintain the patronage of young people.

The American Library Association holds that it is the parent—and only the parent—who may restrict his children—and only *his* children—from access to library materials and services. The parent who would rather his child did not have access to certain materials should so advise the child.

The word "age" was incorporated into Article V of the LIBRARY BILL OF RIGHTS as a direct result of a preconference entitled "Intellectual Freedom and the Teenager," held in San Francisco in June, 1967. One recommendation of the preconference participants was, "That free access to all books in a library collection be granted to young people." The preconference generally concluded that young people are entitled to the same access to libraries and to the materials in libraries as are adults and that materials selection should not be diluted on that account.

This does not mean, for instance, that issuing different types of borrowers' cards to minors and adults is, *per se*, contrary to the LIBRARY BILL OF RIGHTS. If such practices are used for purposes of gathering statistics, the various kinds of cards carry no implicit or explicit limitations on access to materials and services. Neither does it mean that maintaining separate children's collections is a violation of the LIBRARY BILL OF RIGHTS, provided that no patron is restricted to the use of only certain collections.

The Association's position does not preclude isolating certain materials for legitimate protection of irreplaceable or very costly works from careless use. Such "restricted-use" areas as rare book rooms are appropriate if the materials so classified are genuinely rare, and not merely controversial.

Unrestrictive selection policies, developed with care for principles of intellectual freedom and the LIBRARY BILL OF RIGHTS, should not be vitiated by administrative practices which restrict minors to the use of only part of a library's collections and services.

# SCHOOL LIBRARY BILL OF RIGHTS for School Library Media Center Programs

*Approved by American Association of School Librarians Board of Directors, Atlantic City, 1969.*

The American Association of School Librarians reaffirms its belief in the Library Bill of Rights of the American Library Association. Media personnel are concerned with generating understanding of American freedoms through the development of informed and responsible citizens. To this end the American Association of School Librarians asserts that the responsibility of the school library media center is:

To provide a comprehensive collection of instructional materials selected in compliance with basic written selection principles, and to provide maximum accessibility to these materials.

To provide materials that will support the curriculum, taking into consideration the individual's needs, and the varied interests, abilities, socio-economic backgrounds, and maturity levels of the students served.

To provide materials for teachers and students that will encourage growth in knowledge, and that will develop literary, cultural and aesthetic appreciation, and ethical standards.

To provide materials which reflect the ideas and beliefs of religious, social, political, historical, and ethnic groups and their contribution to the American and world heritage and culture, thereby enabling students to develop an intellectual integrity in forming judgments.

To provide a written statement, approved by the local Boards of Education, of the procedures for meeting the challenge of censorship of materials in school library media centers.

To provide qualified professional personnel to serve teachers and students.

## POLICY ON CONFIDENTIALITY OF LIBRARY RECORDS

(Adopted January 20, 1971, by the ALA Council)

The Council of the American Library Association strongly recommends that the responsible officers of each library in the United States:

1. Formally adopt a policy which specifically recognizes its circulation records and other records identifying the names of library users with specific materials to be confidential in nature.
2. Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order, or subpoena as may be authorized under the authority of, and pursuant to, federal, state or local law relating to civil, criminal, or administrative discovery procedures or legislative investigatory power.
3. Resist the issuance or enforcement of any such process, order, or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction.*

*Note: Point 3, above, means that upon receipt of such process, order, or subpoena, the library's officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.

## STATEMENT ON LABELING

### *An Interpretation of the* LIBRARY BILL OF RIGHTS

Because labeling violates the spirit of the LIBRARY BILL OF RIGHTS, the American Library Association opposes the technique of labeling as a means of predisposing readers against library materials for the following reasons:

1. Labeling[1] is an attempt to prejudice the reader, and as such it is a censor's tool.

2. Although some find it easy and even proper, according to their ethics, to establish criteria for judging publications as objectionable, injustice and ignorance rather than justice and enlightenment result from such practices, and the American Library Association must oppose the establishment of such criteria.

3. Libraries do not advocate the ideas found in their collections. The presence of a magazine or book in a library does not indicate an endorsement of its contents by the library.

4. No one person should take the responsibility of labeling publications. No sizable group of persons would be likely to agree either on the types of material which should be labeled or the sources of information which should be regarded with suspicion. As a practical consideration, a librarian who labels a book or magazine might be sued for libel.

5. If materials are labeled to pacify one group, there is no excuse for refusing to label any item in the library's collection. Because authoritarians tend to suppress ideas and attempt to coerce individuals to conform to a specific ideology, the American Library Association opposes such efforts which aim at closing any path to knowledge.

Adopted July 13, 1951.
Amended June 25, 1971, by the ALA Council.

[1]"Labeling," as it is referred to in the STATEMENT ON LABELING, is the practice of describing or designating certain library materials, by affixing a prejudicial label to them or segregating them by a prejudicial system, so as to pre-dispose readers against the materials.

## RESOLUTION ON CHALLENGED MATERIALS

### An Interpretation of the LIBRARY BILL OF RIGHTS

WHEREAS, The LIBRARY BILL OF RIGHTS states that no library materials should be proscribed or removed because of partisan or doctrinal disapproval, and

WHEREAS, Constitutionally protected expression is often separated from unprotected expression only by a dim and uncertain line, and

WHEREAS, Any attempt, be it legal or extra-legal, to regulate or suppress material must be closely scrutinized to the end that protected expression is not abridged in the process, and

WHEREAS, The Constitution requires a procedure designed to focus searchingly on the question before speech can be suppressed, and

WHEREAS, The dissemination of a particular work which is alleged to be unprotected should be completely undisturbed until an independent determination has been made by a judicial officer, including an adversary hearing,

THEREFORE, THE PREMISES CONSIDERED, BE IT RESOLVED, That the American Library Association declares as a matter of firm principle that no challenged library material should be removed from any library under any legal or extra-legal pressure, save after an independent determination by a judicial officer in a court of competent jurisdiction and only after an adversary hearing, in accordance with well-established principles of law.

Adopted June 25, 1971 by the ALA Council.

## *STATEMENT ON REEVALUATION OF*

## *LIBRARY MATERIALS FOR CHILDREN'S COLLECTIONS*

Librarians must espouse critical standards in selection and re-evaluation of library materials. It is incumbent on the librarian working with children to be aware that the child lacks the breadth of experience of the adult and that librarians have a two-fold obligation in service to the child:

1. To build and maintain collections of materials which provide information on the entire spectrum of human knowledge, experience and opinion.

2. To introduce to the child those titles which will enable him to develop with a free spirit, an inquiring mind, and an ever-widening knowledge of the world in which he lives.

Because most materials reflect the social climate of the era in which they are produced, it is often difficult to evaluate some aspects of a work at the time of purchase. But social climate and man's state of knowledge are constantly changing and librarians should therefore continuously reevaluate their old materials in the light of growing knowledge and broadening perspectives. In the process of reevaluation it may be found that an old title is still fresh and pertinent, or even, that it was produced ahead of its time and now has a new relevance. It may, on the other hand, no longer serve a useful role in the collection. It may have been superseded by better books.

In making his decision, the librarian has a professional obligation to set aside personal likes and dislikes, to avoid labeling materials, to consider the strengths and weaknesses of each title, and to consider the material as a whole with objectivity and respect for all opinions. Only after such consideration can he reach a decision as to whether the title is superseded in coverage and quality, and should be discarded, or should be kept in the collection.

The Board of Directors of the Children's Services Division, American Library Association, supports the Library Bill of Rights and Free Access to Libraries for Minors. Reevaluation is a positive approach to sound collection building and should not be equated with censorship.

Adopted by the Board of Directors,
Children's Services Division,
American Library Association
January 29, 1973

## *SEXISM, RACISM AND OTHER -ISMS IN LIBRARY MATERIALS*

### *An Interpretation of the LIBRARY BILL OF RIGHTS*

Traditional aims of censorship efforts have been to suppress political, sexual or religious expressions. The same three subjects have also been the source of most complaints about materials in library collections. Another basis for complaints, however, has become more and more frequent. Due, perhaps, to increased awareness of the rights of minorities and increased efforts to secure those rights, libraries are being asked to remove, restrict or reconsider some materials which are allegedly derogatory to specific minorities or which supposedly perpetuate stereotypes and false images of minorities. Among the several recurring "isms" used to describe the contents of the materials objected to are "racism" and "sexism."

Complaints that library materials convey a derogatory or false image of a minority strike the personal social consciousness and sense of responsibility of some librarians who - accordingly - comply with the requests to remove such materials. While such efforts to counteract injustices are understandable, and perhaps even commendable as reflections of deep personal commitments to the ideal of equality for all people, they are - nonetheless - in conflict with the professional responsibility of librarians to guard against encroachments upon intellectual freedom.

This responsibility has been espoused and reaffirmed by the American Library Association in many of its basic documents on intellectual freedom over the past thirty years. The most concise statement of the Association's position appears in Article II of the LIBRARY BILL OF RIGHTS which states that "Libraries should provide books and materials presenting all points of view concerning the problems and issues of our times; no library materials should be proscribed or removed because of partisan or doctrinal disapproval."

While the application of this philosophy may seem simple when dealing with political, religious or even sexual expressions, its full implications become somewhat difficult when dealing with ideas, such as racism or sexism, which many find abhorrent, repugnant and inhumane. But, as stated in the FREEDOM TO READ STATEMENT,

> It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society each individual is free to determine for himself what he wishes to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive....We realize that application of these propositions may mean the dissemination of

> ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

Some find this creed acceptable when dealing with materials for adults but cannot extend its application to materials for children. Such reluctance is generally based on the belief that children are more susceptible to being permanently influenced - even damaged - by objectionable materials than are adults. The LIBRARY BILL OF RIGHTS, however, makes no distinction between materials and services for children and adults. Its principles of free access to all materials available apply to every person, as stated in Article V, "The rights of an individual to the use of a library should not be denied or abridged because of his age, race, religion, national origins or social or political views."

Some librarians deal with the problem of objectionable materials by labeling them or listing them as "racist" or "sexist." This kind of action, too, has long been opposed by the American Library Association in its STATEMENT ON LABELING, which says,

> If materials are labeled to pacify one group, there is no excuse for refusing to label any item in the library's collection. Because authoritarians tend to suppress ideas and attempt to coerce individuals to conform to a specific ideology, the American Library Association opposes such efforts which aim at closing any path to knowledge.

Others deal with the problem of objectionable materials by instituting restrictive circulation or relegating materials to closed or restricted collections. This practice, too, is in violation of the LIBRARY BILL OF RIGHTS as explained in RESTRICTED ACCESS TO LIBRARY MATERIALS which says,

> Too often only "controversial" materials are the subject of such segregation, leading to the conclusion that factors other than theft and mutilation were the true considerations. The distinction is extremely difficult to make, both for the librarian and the patron. Unrestrictive selection policies, developed with care for the principles of intellectual freedom and the LIBRARY BILL OF RIGHTS, should not be vitiated by administrative practices such as restricted circulation.

The American Library Association has made clear its position concerning the removal of library materials because of partisan or doctrinal disapproval, or because of pressures from interest groups, in yet another policy statement, the RESOLUTION ON CHALLENGED MATERIALS:

> The American Library Association declares as a matter of firm principle that no challenged material should be removed from

any library under any legal or extra-legal pressure, save after an independent determination by a judicial officer in a court of competent jurisdiction and only after an adversary hearing, in accordance with well-established principles of law.

Intellectual freedom, in its purest sense, promotes no causes, furthers no movements, and favors no viewpoints. It only provides for free access to all ideas through which any and all sides of causes and movements may be expressed, discussed and argued. The librarian cannot let his own preferences limit his degree of tolerance, for freedom is indivisible. Toleration is meaningless without toleration for the detestable.

Adopted February 2, 1973 by the ALA Council

[ISBN 8389-5407-3]

## RESTRICTED ACCESS TO LIBRARY MATERIALS

### An Interpretation of the LIBRARY BILL OF RIGHTS

Restricting access of certain titles and certain classes of library materials is a practice common to many libraries in the United States. Collections of these materials are referred to by a variety of names such as "closed shelf," "locked case," "adults only," or "restricted shelf" collections.

Three reasons generally advanced to justify restricted access are:

(1) It provides a refuge for materials that belong in the collection but which may be considered "objectionable" by some library patrons;

(2) It provides a means for controlling distribution of materials which allegedly should not be read by those who are not "prepared" for such materials by experience, education, or age;

(3) It provides a means to protect certain materials from theft and mutilation.

Though widely used - and often practical - restricted access to library materials is frequently in opposition to the principles of intellectual freedom. While the limitation differs from direct censorship activities, such as removal of library materials or refusal to purchase certain publications, it nonetheless constitutes censorship, albeit a subtle form. As a form of censorship, restricted access violates the spirit of the LIBRARY BILL OF RIGHTS in the following ways:

(1) It violates that portion of Article II which states that "...no library materials should be proscribed... because of partisan or doctrinal disapproval."

The word "proscribed," as used in Article II, means "suppressed." Restricted access achieves de facto suppression of certain materials.

Even when a title is listed in the card catalog with a reference to its restricted shelf status, a barrier is placed between the patron and the publication. Because a majority of materials placed in restricted collections deal with controversial, unusual, or "sensitive" subjects, asking a librarian or circulation clerk for them is an embarrassment for patrons desiring the materials. Because

restricted collections are often composed of materials which some library patrons consider "objectionable," the potential user is predisposed to thinking of the materials as "objectionable," and is accordingly inhibited from asking for them. Although the barrier between the materials and the patron is psychological, it is nonetheless a tangible limitation on his access to information.

(2) It violates Article V which states that, "The rights of an individual to the use of a library should not be denied or abridged because of his age... ."

Limiting access of certain materials to adults only abridges the use of the library for minors. "Use of the library," includes use of, and access to, library materials. Such restrictions are generally instituted under the assumption that certain materials are "harmful" to minors, or in an effort to avoid controversy with parents who might think so.

The librarian who would restrict the availability of materials to minors because of actual or suspected parental objection should bear in mind that he is not in loco parentis in his position as librarian. The American Library Association holds that it is the parent - and only the parent - who may restrict his children - and only his children - in reading matter. The parent who would rather his child did not read certain materials or certain kinds of materials should so advise the child.*

When restricted access is implemented to protect materials from theft or mutilation, the use of the practice may be legitimate. However, segregation of materials to protect them must be administered with extreme attention to the rationale for restricting access. Too often only "controversial" materials are the subject of such segregation, leading to the conclusion that factors other than theft and mutilation were the true considerations. The distinction is extremely difficult to make, both for the librarian and the patron.

Selection policies, carefully developed on the basis of principles of intellectual freedom and the LIBRARY BILL OF RIGHTS, should not be vitiated by administrative practices such as restricted access.

*See also FREE ACCESS TO LIBRARIES FOR MINORS, adopted by the ALA Council, June 30, 1972.

Adopted February 2, 1973 by the ALA Council

[ISBN 8389-6081-2]

## *REEVALUATING LIBRARY COLLECTIONS**

### *An Interpretation of the LIBRARY BILL OF RIGHTS*

The continuous review of library collections to remove physically deteriorated or obsolete materials is one means to maintain active library collections of current interest to users. Continued re-evaluation is closely related to the goals and responsibilities of libraries and is a valuable tool of collection building. This procedure, however, is sometimes used as a convenient means to remove materials thought to be too controversial or disapproved of by segments of the community. Such abuse of the reevaluation function violates the principles of intellectual freedom and is in opposition to Articles I and II of the LIBRARY BILL OF RIGHTS, which state that:

> As a responsibility of library service, books and other library materials selected should be chosen for values of interest, information and enlightenment of all the people of the community. In no case should library materials be excluded because of the race or nationality or the social, political, or religious views of the authors.
>
> Libraries should provide books and other materials presenting all points of view concerning the problems and issues of our times; no library materials should be proscribed or removed from libraries because of partisan or doctrinal disapproval.

The American Library Association opposes such "silent censorship," and recommends that libraries adopt guidelines setting forth the positive purposes and principles for reevaluation of materials in library collections.

*The traditional term "weeding" implying "the removal of a noxious growth," is purposely avoided because of the imprecise nature of the term.

Adopted February 2, 1973 by the ALA Council

[ISBN 8389-5406-5]

## EXPURGATION OF LIBRARY MATERIALS

### An Interpretation of the LIBRARY BILL OF RIGHTS

Library materials are chosen for their value and interest to the community the library serves. If library materials were acquired for these reasons and in accordance with a written statement on materials selection, then to expurgate must be interpreted as a violation of the LIBRARY BILL OF RIGHTS. For purposes of this statement, expurgation includes deletion, excision, alteration or obliteration. By such expurgation, the library is in effect denying access to the complete work and the full ideas that the work was intended to express; such action stands in violation of Article II of the LIBRARY BILL OF RIGHTS which states that "no library materials should be proscribed or removed from libraries because of partisan or doctrinal disapproval."

The act of expurgation has serious implications. It involves a determination by an individual that it is necessary to restrict the availability of that material. It is, in fact censorship.

When a work is expurgated, under the assumption that certain sections of that work would be harmful to minors, the situation is no less serious. Expurgation of any library materials imposes a restriction, without regard to the rights and desires of all library users.

Adopted February 2, 1973 by the ALA Council

[ISBN 8389-5419-7]

## *RESOLUTION ON GOVERNMENTAL INTIMIDATION*

WHEREAS, The principle of intellectual freedom protects the rights of free expression of ideas, even those which are in opposition to the policies and actions of Government itself; and

WHEREAS, The support of that principle is guaranteed by the First Amendment, thus insuring Constitutional protection of individual or collective dissent; and

WHEREAS, Government, at whatever level, national, state, or local, must remain ever vigilant to the protection of that principle; and

WHEREAS, Government, although properly empowered to promulgate, administer, or adjudicate law, has no right to use illicitly its legally constituted powers to coerce, intimidate, or harrass the individual or the citizenry from enunciating dissent; and

WHEREAS, The illegitimate uses of legitimate governmental powers have become increasingly a matter of public record, among them being the misuse of the Grand Jury and other investigative procedures, the threat to deny licenses to telecommunications media, the indictment of citizens on charges not relevant to their presumed offenses, and the repressive classification, and hence denial, of documentary material to the very public taxed for its accumulation; and

WHEREAS, These illicit uses not only constitute an abrogation of the right to exercise the principle of freedom of expression but also, and perhaps more dangerously, prefigure a society no longer hospitable to dissent;

NOW THEREFORE BE IT RESOLVED, That the American Library Association, cognizant that in the scales of justice the strength of individual liberty may outweigh the force of power, expresses its unswerving opposition to any use of governmental prerogative which leads to the intimidation of the individual or the citizenry from the exercise of the constitutionally protected right of free expression, and

BE IT FURTHER RESOLVED, That the American Library Association encourage its members to resist such improper uses of governmental power, and

FURTHER, That the American Library Association supports those against whom such governmental power has been employed.

Adopted February 2, 1973 by the ALA Council

[ISBN 8389-5421-9]

## *RESOLUTION ON SHIELD LAWS*

WHEREAS, The privilege of authors, journalists and broadcasters to protect the confidentiality of their sources of information is a generally accepted principle in the United States, and

WHEREAS, This privilege has recently come under severe attack in the courts, resulting in the jailing of reporters and the infringement of freedom of information, and

WHEREAS, The LIBRARY BILL OF RIGHTS cannot be implemented when information is being suppressed at its source, and

WHEREAS, The United States Congress and numerous state legislatures are presently considering measures, commonly known as shield laws, that would clearly establish by statute the privilege of confidentiality,

NOW, THEREFORE, BE IT RESOLVED, That the American Library Association strongly supports the enactment by Congress of a broad and effective federal shield law,

AND BE IT FURTHER RESOLVED, That the Association exhorts its chapters to work vigorously for the enactment of similarly broad and effective shield laws in every state.

Adopted February 2, 1973 by the ALA Council

[ISBN 8389-5422-7]